# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/963,435
Filed: September 27, 2001
Inventor:
Daniel Blaukopf, et al.

Title: Method and Protocol for Mediating Communication Between Software Applications

Examiner: Chankong, Dohm
Group/Art Unit: 2152
Atty. Dkt. No: 5681-78901

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Robert C. Kowert
Name of Registered Representative

Signature

December 29, 2005
Date

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

**Mail Stop AF**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated below.

Claims 1-20 remain pending in the application. Reconsideration of the present case is earnestly requested in light of the following remarks. Please note that for brevity, only the primary arguments directed to the independent claims are presented, and that additional arguments, e.g., directed to the subject matter of the dependent claims, will be presented if and when the case proceeds to Appeal.

The Examiner rejected claims 1, 12 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Aldred et al. (U.S. Patent 5,719,942) (hereinafter "Aldred") in view of Raynak et al. (U.S. Patent 5,680,549) (hereinafter "Raynak"), claims 2-6, 8-11, 13-17 and 19 as being unpatentable over Aldred and Raynak, and in further view of Simonoff et al. (U.S. Patent 6,005,568) (hereinafter "Simonoff"), and claims 17 and 18 as being unpatentable over Aldred, Raynak and Simonoff, and in further view of Jalili et al. (U.S. Patent 5,423,042) (hereinafter "Jalili"). Applicants note the following clear errors in the Examiner's rejection.

**Applicants submit that the Examiner has failed to provide a *prima facie* rejection of claims 1, 12 and 20.**

Regarding claim 1, contrary to the Examiner's assertion, Aldred in view of the Raynak does not teach or suggest a first application launching a second application, where the launching of the second application includes the first application passing an event port number and a command port number to the second application. Aldred specifically teaches the use of support system software together with call manager applications to establish, configure, and manage communication channels between applications, especially between applications executing on different hardware nodes (Abstract; column 1, lines 52-60). Aldred teaches that groups of applications communicate by participating in named sharing sets. Aldred's call managers coordinate, monitor and manage the various share sets of applications. Aldred also teaches a support system and a software API through which applications interact with the call managers. Aldred's API includes functions for initiating and configuring communication between shared applications via channels and signals.

The Examiner cites various portions of Aldred (column 5, lines 51-63; column 6, lines 39-49; column 7, lines 33-62; column 12, lines 57-61; and column 36, lines 3-52) that describe Aldred's channels and share sets. However, none of these cited passages describes passing event port numbers and command port numbers to an application as part of launching that application. Instead, Aldred teaches a manner and method of initializing and configuring communication channels between applications that does not include passing event port numbers and command port numbers as part of launching an application. Aldred explains the benefits of using the support system software when establishing and configuring communications channels. For example, relying upon call managers and the support system software allows applications to be "aware" of, and to use, Aldred's system while avoiding the need to be involved in "call set-up or tear-down." Aldred teaches the benefit of providing clear separation of call management and application programming (Aldred, column 26, lines 62-67).

Aldred states, "in order for an application instance to be allowed to communicate with the system, it must identify itself by issuing a register_app call" (column 35, lines 48-67). Aldred also teaches, "it is up to the launched application to use [the] register_app [function] to fully identify itself to the system" (column 36, lines 21-55). Aldred describes that adding a port to a channel includes a request from one application, which is sent via the support system as an unsolicited event to a second application, and a confirmation (or error) response routed back to the first application as a confirm event (Aldred, column 24, lines 39-51). Additionally, one of the benefits of Aldred's share sets, call managers and support system software is that data may be communicated across heterogeneous networks using passive nodes to route data between an application on one node and another application on another node (Aldred, column 2, lines 19-50; column 5, lines 41-50; column 19, lines 24-48). Nowhere does Aldred describe passing event port numbers and command port numbers to an application ***as part of launching that application***.

The Examiner also cites column 11, lines 27-39 and column 29, lines 8-19, where Aldred describes launching applications and refers to Aldred's "launch_app" API command. However, Aldred's launch_app function is used by applications to interact with, and request support services from, Aldred's call managers (*see*, Aldred, column 4, lines 27-43). Thus, an application wishing to launch another application uses the launch_app function to communicate the request to a call manager. The call manager forwards the request to a call manager executing on the appropriate node of Aldred's system. The second call manager may then launch the requested application (Aldred, column 5, lines 51-63). The fact that Aldred includes a mechanism to launch applications does not teach or suggest passing an event port number and a command port number as part of launching an application. **Nowhere does Aldred describe passing event port numbers and command port numbers as part of launching an application via the launch_app API function**. In contrast, Aldred teaches that an application may issue a

launch_app command and may be returned a limited use handle to the launched application that is "only valid in very restricted circumstances *until the launched application has registered with the support system*" (emphasis added, column 11, lines 34-36). Thus, as noted above, Aldred teaches that ports, and therefore event port numbers and command port numbers, are only configured after an application has registered with the support system.

The Examiner, in the Response to Arguments section, "believes it is reasonable to suggest that the parameters passed in Aldred's launch_app function would be the channel characteristics needed for launching and launched applications to communicate". The Examiner repeats this assertion in the Advisory Action. However, the Examiner's belief is completely unsupported by the actual teachings of the cited art, and can thus only be based on hindsight knowledge of Applicants' disclosure. In fact, **Aldred teaches away** from one application passing event port numbers and command port numbers as part of launching another application. As described above, Aldred's system already includes a very specific mechanism to initiate and configure ports and channels between applications that specifically does not include passing event port numbers and command port numbers as part of launching applications. Aldred clearly teaches the benefits of an application first registering with a call manager and joining a share set before initiating or configuring channels and ports. Rather than providing any motivation to modify Aldred's system to pass event port numbers and command port numbers as part of one application launching another application, **Aldred teaches away** from one application launching another application and passing event port numbers and command port numbers as part of launching the other application. Furthermore, it would not make sense to modify Aldred to bypass the share sets that are central to Aldred's system by passing event port numbers and command port numbers as part of launching applications. Such a modification would not only be contrary to Aldred's specific teachings, it would remove the specific benefits of Aldred's sharing sets, call managers, and support system software.

The Examiner, in the Advisory Action, responds to this argument by repeating the assertion that Aldred's launch_app function might include command and event port numbers and again citing column 36, lines 24-53 of Aldred. However, as noted above, this passage of Aldred fails to mention sending command and/or event port numbers as part of one application launching another application. Moreover, the cited passage describes the "parameters" referred to by the Examiner as "a user specified string that is given to the launched application". The Examiner appears to be interpreting the "user specified string" as including command and event port numbers. However, nowhere does Aldred mention that a user of his system specifies command and event port numbers. Instead, as noted above, Aldred system includes a specific set of APIs allowing applications to setup command and event ports, including specifying port numbers.

The Examiner also asserts, both in the Final Office Action and the Advisory Action, that "the sending application is responsible for defining the channel characteristics", and that "modification of Aldred to include passing an channel and port information between applications does not change the principle of his invention". The Examiner cites column 1, lines 61-65. However, the Examiner has clearly mischaracterized Aldred's meaning regarding "the sending application is responsible for defining the channel characteristics" by stating instead "the sending application is responsible for establishing the channel between applications". *Defining the channel characteristics* and *establishing the channel* are two different actions. In fact, Aldred describes these characteristics in 12:57-64 as: "target application handle, channel set type and identifier, data class, maximum buffer size, user exit, node handle, quality of service, connect type, port event handler, user information". In Aldred's system, the sending application must provide the support system with this information in channel creation; but *it does not establish the channel itself.* Applicants also note that in creating the channel between two programs, i.e., the

launched and launching programs, a target application handle and a node handle are required by the support system. The Examiner speculates (erroneously) that "parameters passed in Aldred's launch_app function would be the channel characteristics needed for the launching and launched applications to communicate". However, the Examiner has not cited any portion of the art to support such a suggestion, and as noted above, a target application handle and a node handle are required for the channel creation, and in 11:27-39, are not available until *after* the application has been launched. Furthermore, the node handle is specified by the return data, which is returned *after the application has registered* with the support system (11:29-31, 11:36-39).

Furthermore, contrary to the Examiner's assertion in Response to Arguments, the limited use handle does not disclose "that a channel has been already established between the applications". In fact, Aldred defines how the handle is implemented in 36:45-48: "This function [launch_app] is used to ask the system to start another program instance. IF the new application is started successfully then its instance handle is inserted in the target_application and returned to the calling application". Aldred has already defined the target_application as a pointer used by the system. Therefore, Aldred's system changing the value of a particular pointer, where that changing of value is communicated within the support system and not directly between the two programs, does not teach that a channel has been already established between the applications. And, as noted above, the newly launched application is not "allowed to communicate with the system" without registration. Furthermore, this communication with the system is required for the system to create a channel as in the API call function add_channel or create_channel (col. 29).

Moreover, modifying Aldred's system to include passing an event port number and a command port number to an application as part of launching that application would change the principle of operation of Aldred's system. Aldred's system relies upon applications registering and utilizing both the call managers and the support system software via Aldred's API to properly initiate and configure communications between applications. Bypassing this system to send event port numbers and command port numbers to applications, as part of launching those applications, would bypass Aldred's sharing set concept, which is essential to the operation of his system, and thus change Aldred's principle of operation. As discussed in § 2143.01 of the M.P.E.P, a rejection based on a modification that changes the principle of operation of a reference is improper.

Additionally, the Examiner asserts, in the Advisory Action, "Aldred discloses that the register function merely allows the support system to be aware of the application", citing column 36, lines 9-16. However, the cited passage makes no such statement. Instead, the cited passage describes how if no call manager currently exists the issuer of the register_app call either becomes the call manager or terminates. The Examiner has misrepresented the true teachings of Aldred.

Furthermore, the Examiner has stated that nowhere does Aldred declare that ports are only configured after an application has registered with the support system. Apparently the Examiner has overlooked the fact that Aldred specifically discloses that: "In order for an application instance to be allowed to communicate with the system, it must identify itself by issuing an register_app call. This call must be issued prior to any other calls from this instance, otherwise the calls will fail." Additionally, Aldred teaches, "it is up to the launched application to use an register_app to fully identify itself to the system" (35:47-67). Clearly, Aldred's registration allows the newly launched application to interact with the system and is not simply limited to "allow other applications to know that it has been launched", as the Examiner contends.

As argued above, the rejection of claim 1 is not supported by Aldred. Furthermore, the combination with Raynak does not overcome the above-noted deficiencies of Aldred. Thus, for at least the reasons provided above, Applicants submit that neither Aldred nor Raynak, either singly or in combination, discloses the features and limitations of claim 1. Similar remarks also apply to claims 12 and 20.

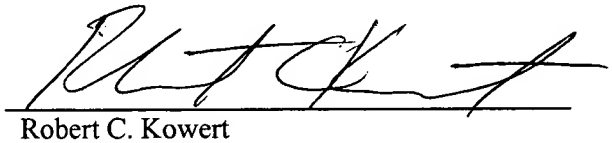
The Examiner's rejection of many of the dependent claims is additionally erroneous. For example, the cited art is clearly insufficient to support the rejection of claims 5-6 and 16-17, as discussed in detail in Applicants' previous response on pp. 11-12.

In light of the foregoing remarks, Applicant submits the application is in condition for allowance, and notice to that effect is respectfully requested. If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicants hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5681-78901/RCK.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard
☒ Notice of Appeal

Respectfully submitted,



Robert C. Kowert
Reg. No. 39,255
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8850

Date: December 29, 2005